

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

CLEOPHTHA W. DAVIS, Plaintiff

v.

No. 2:05CV118-B-B

AMERICAN GENERAL FINANCE SERVICES, INC.  
Defendant

REPORT AND RECOMMENDATIONS

This is a case in which the plaintiff is proceeding *pro se*. Plaintiff has not provided the court nor counsel for the defendant a telephone number at which he may be reached.

On June 24, 2005, the court issued its Revised Rule 16.1(A) Initial Order setting a telephonic case management conference on Wednesday, September 7, 2005, at 10:00 a.m., directing the parties to confer prior to the case management conference, and to submit to the undersigned magistrate judge, no later than 21 days prior to the conference, a confidential memorandum containing a candid assessment of the claims or defenses. The *pro se* plaintiff was copied with the notice at his last known address, Post Office Box 28, Darling, MS 38623. As that mailing has not been returned by postal authorities, the court must assume that it was received by the plaintiff.

Plaintiff failed to confer with counsel for the defendant; failed to submit the settlement memorandum; and further failed to initiate the telephone conference call as instructed by the Revised Rule 16.1(A) Order, all without notice to the court or explanation for such failures.

Cleoptha W. Davis  
Post Office Box 28  
Darling, MS 38623

It does not appear to the undersigned that plaintiff intends to proceed with this litigation. His failure to comply with the court's order is clear evidence of his lack of interest in maintaining the action and constitutes not only a failure to comply with an order of the court, but a failure to prosecute his suit within the meaning of Rule 41(b), Federal Rules of Civil Procedure. All of plaintiff's claims are therefore subject to dismissal on those grounds.

It is therefore recommended that this matter be dismissed pursuant to Rule 41(b), Federal Rules of Civil Procedure, for failure to prosecute and failure to obey the court's June 24, 2005, Revised Rule 15.1 Initial Order.

The parties are referred to Local Rule 72.2(D) for the applicable procedure in the event any party desires to file objections to the findings and recommendations herein contained. The parties are warned that any such objections are required to be in writing and must be filed within ten days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415 (5 Cir. 1996).

Respectfully submitted, this the 7<sup>th</sup> day of September, 2005.

/s/ Eugene M. Bogen  
UNITED STATES MAGISTRATE JUDGE